



Texas Section

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American Water Works Association

July 27, 1999

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Ms. Magalie Roman Salas
FCC Secretary
Office of the Secretary
Federal Communications Commission
The Portals, 445 Twelfth Street, S.W.
Washington, D.C. 20554

RE: WT Docket 99-87, Revised Competitive Bidding Authority

Dear Ms. Salas:

The Texas Section of the American Water Works Association appreciates the opportunity to comment on the proposed rule regarding Revised Competitive Bidding Authority, WT Docket 99-87. Enclosed are comments and four copies in response to the Commission's request for comments on the rule.

If you have questions concerning these comments, please contact Mike Howe, Executive Director, Texas Section American Water Works Association at 512-238-9292.

Sincerely,

Bill Riley, Chair
Texas Section AWWA

Cc: Senator Phil Gramm
Senator Kay Bailey Hutchison
Sarah Clark

Attachment

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Texas Section

American Water Works Association

COMMENT: Revised Competitive Bidding Authority
WT Docket 99-87

TO: The Federal Communications Commission

FROM: Texas Section AWWA
P.O. Box 80150
Austin, Texas 78708

DATE: July 29, 1999

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SUMMARY

In the Telecommunications Act of 1996, the Congress charged the Federal Communications Commission (FCC) with the requirement that radio frequency spectrum for communication, both voice and data, be assigned as a result of auction. In this Act, particular frequency spectrums were set aside for use by "public safety" organizations. In the Act, "public safety" was identified as police and fire protection services.

The Balanced Budget Act of 1997 directed the FCC to provide spectrum set-aside for more broadly described "public safety services," including critical national infrastructure entities outside the auction process.

The Texas Section of the American Water Works Association supports the rulemaking petition submitted by the UTC, American Petroleum Institute, and Association of American Railroads proposing to create a third radio pool, in addition to the Public Safety and Industrial/Business Radio Pools already used for private radio frequencies below 470 MHz, to be known as the Public Service Radio Pool. The Public Service Radio Pool would be open to entities that do not qualify for the Public Safety Radio Pool spectrum, but that are eligible to use the public safety radio services that the Balanced Budget Act exempted from the Commission's auction authority. The Texas Section of the American Water Works Association believes that this approach is feasible and appropriate for other frequency bands including PLMR frequencies above 470 MHz.

INTRODUCTION

The Texas Section of the American Water Works Association represents nearly 3000 member utilities, operators and others in the water treatment profession who supply the majority of drinking water to citizens of Texas.

In managing the water supplies to protect the health and safety of our the millions of Texas residents, our utility members maintain close communication ties to various emergency services in their specific service areas as well as the emergency responders in their surrounding counties. Radio links are critical to all emergency response plans in any region in Texas. This critical link has been demonstrated numerous times in the last several years during storm events in all parts of Texas that resulted in tornadoes, massive flooding, or significant power outages.

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COMMENTS

The Balanced Budget Act of 1997, Public Law No. 105-33, Title III, 111 Statute 251 (1997) ("Balanced Budget Act") revised the Commission's auction authority for wireless telecommunications services. The Texas Section of the American Water Works Association believes that the timely implementation of the Balanced Budget Act provisions regarding spectrum access for critical infrastructure entities is critical to meeting a need expressly recognized by the U.S. Congress.

Exemption from Auction

The Balanced Budget Act of 1997 and associated report language provide clear legislative direction to the FCC to insure that public safety radio services as defined in the Act are exempt from auction. In determining that there was a specific need for access to spectrum outside of the auction process, Congress implicitly recognized the need for adequate availability of spectrum to activities deemed public safety radio services. And, that that spectrum should be made available to these activities through a mechanism other than auctions.

Definition of Public Safety Radio Service

The definition for "public safety radio services" as stated by Congress is broader than the current "public safety radio services." The Balanced Budget Act of 1997 and the associated report specifically avoid the use of language that would limit the applicability of this section to the current definition of public safety (i.e., police, fire, rescue applications). The Act by reference and specific language describes "public safety radio services" as including private internal radio services that are:

1. Used by state and local government,
2. Used by non-governmental entities to protect safety of life, health or property, and not made commercially available to the public.

The Act was accompanied by report language that provides a clear description of public safety radio services that meet the private internal radio services definition in the Act:

"The exemption from competitive bidding authority for "public safety radio services" includes "private internal radio services" used by utilities, railroads, metropolitan transit systems, pipelines, private ambulances, and volunteer fire departments. Though private in nature, the services offered by these entities protect the safety of life, health, or property and are not made commercially available to the public."

Access to the exemption from competitive bidding authority for public safety radio service and associated spectrum allocations is a function of the service provided.

Definition of Private Internal Radio Services

Access to the exemption from competitive bidding authority for private internal radio services should be held against the same yardstick as described above with the additional requirement that the radio service does not involve the commercial sale of the radio service itself. When applying this test of eligibility and the applicant serves a group of users, all users must meet the eligibility tests of (1) used to protect safety of life, health, or property, and (2) radio service is not sold commercially.

Establishing a Public Safety Radio Service Pool

The Texas Section of the American Water Works Association supports the formation of a public safety radio service pool to ensure that exempt spectrum is designated for the public safety needs identified in the Balanced Budget Act. Exemption from auction implies the formation of a core spectrum allocation to meet public safety radio service needs.

Critical Infrastructure Entity Need Spectrum

Drinking water utilities should be eligible for auction exempt spectrum identified by the FCC as it implements the Balanced Budget Act provisions. Many drinking water utilities across the United States and in Texas are finding it difficult to obtain suitable spectrum to meet critical system needs. In some fast growing areas, utilities have the problem of reserving a spectrum that can serve across their entire water distribution area to provide control of drinking water reservoirs in their distribution system. One less than desirable solution has been to use a spectrum which is shared by a neighboring agency requiring difficult and conflicting special arrangements for the geographic area in which the needs for the spectrum overlap. As growth continues, this problem will become more pronounced and the need for alternate spectrum may well be the controlling factor in a utility's ability to expand their control system to include any additional water or wastewater facilities.

UTC has estimated that at least 6 MHz of spectrum (with the majority of that allocation being above 900 MHz) is required to meet power, pipeline, railroad, and water utility spectrum needs for the near future. While the public safety radio services pool will not meet this total need, the proposed pool would help address a portion of the spectrum needs identified by UTC for the critical infrastructure entities.

Spectrum Utility

The spectrum provided in the public safety pool should have utility for the eligible entities in Texas. For the public safety pool to assist utilities in Texas with similar interoperability and private internal communication applications, the pool should be developed from:

1. 928-952-956 MHz MAS band, where current licensee is a member of the original Power Services Pool.
2. 932-941 MHz MAS band, a minimum of 20 channel pairs.
3. 6, 11, and 18 GHz microwave bands which are currently in use for private internal radio service.
4. 700 MHz band for interoperability with emergency responders.

These bands are identified based on several general principles: (1) appropriateness for radio applications typical of critical national infrastructure entities which are eligible for this pool; (2) current installed equipment base and availability of equipment suitable for critical national infrastructure entity applications of this spectrum; and (3) historical use of this spectrum by critical national infrastructure entities. Some utilities currently use spectra in the 900 MHz range for control of the water distribution system equipment and will be needing additional bands in that same range for any expansion of control to additional water or wastewater systems.